

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

Susan S. Ruffalo

Debtor.

Chapter 13

Case No.: 23-22041 cgm

**MOTION FOR AN ORDER
CONFIRMING NO STAY IN EFFECT
PURSUANT TO 11 USC 362(j) and 362(c) or
ALTERNATIVELY FOR AN ORDER LIFTING THE AUTOMATIC STAY
PURSUANT TO 11 USC 362(d)**

COMES NOW, Bridge Stone Realty, LLC, (“Creditor”), by and through undersigned attorneys, hereby files this Motion for an Order Confirming No Stay in Effect or alternatively for an Order Lifting the Automatic Stay of the instant bankruptcy case and argues the following:

1. That on or about January 17, 2023, Debtor filed for protection under Chapter 13 of the U.S. Bankruptcy Code.
2. Upon information and belief, Debtor is an occupant of the real property located at 9 Pleasant Avenue, White Plains, New York 10605 (hereinafter “Subject Property”).
3. The movant is the owner of the aforementioned Subject Property. *See Exhibit A and Declaration in Support of Motion.*
4. The movant became owner of said property by purchase from the successful bidder of a foreclosure sale. *See Exhibit B and Declaration in Support of Motion.*
5. On or about September 28, 2023, Judge Lane entered an order lifting the automatic stay and included additional preclusive language stating that **“the filing of any new case or pleading in Bankruptcy Court will not operate to impose an automatic stay as to**

the real property located at 9 Pleasant Avenue, White Plains, New York 10605,
which was the subject of prior proceedings in state court that resulted in the entry
of a judgment of foreclosure and the sale of the real property an the real property
no longer being property of [Todd Ruffalo]". *See Exhibit C.*

LEGAL STANDARD

6. Section 362(c)(1) provides that "the stay of an act against property of the estate under subsection (a) of this section continues until such property is no longer property of the estate".
7. Section 362(j) provides that "[o]n request of a party in interest, the court shall issue an order under subsection (c) confirming that the automatic stay has been terminated.
8. Section 362(d) provides that "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay".

ARGUMENT

9. On or about September 28, 2023, the Honorable Judge Lane entered an order lifting the bankruptcy stay and provided injunctive relief. *See Exhibit C.*
10. Not only does the order enjoins Todd Ruffalo, Jr. from causing any filing in bankruptcy court, but it also indicates that no bankruptcy stay shall be imposed as to the real property at 9 Pleasant Avenue, White Plains, New York 10605.
11. Susan Ruffalo has no ownership interest in the Subject Property.
12. Upon information and belief, Susan Ruffalo is claiming an interest in the Subject Property by virtue of an occupancy by and/or through Todd Ruffalo's claim to the Subject Property. And Todd Ruffalo has no interest in the Subject Property.

13. In Schedule A of the petition, Debtor has indicated that she resides at 7 Pleasant Avenue,
White Plains, New York 10605.

14. In an abundance of caution, movant seeks an order confirming Judge Lane's order or
alternatively for an order lifting the automatic stay.

15. Assuming that Debtor files a Plan of Reorganization, the Subject Property is not
necessary for an effective reorganization.

WHEREFORE, Creditor respectfully request an Order confirming that there is no
bankruptcy stay in effect or alternatively seek an Order terminating the automatic stay and any
other such relief this Court deems just and proper.

Dated: January 30, 2023
Yonkers, New York

JAMES G. DIBBINI & ASSOCIATES, P.C.
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570 Yonkers Avenue
Yonkers, New York 10704
Phone: (914) 240-8249

/s/ James G. Dibbini, Esq.
JAMES G. DIBBINI, ESQ.

CERTIFICATE OF SERVICE

I hereby certify that on January 30, 2023, I caused/will have caused the foregoing to be electronically filed with Clerk of the Bankruptcy Court using the CM/ECF system, which sent notification of such filing to the following:

US Trustee
Office of the United States Trustee
One Bowling Green, Rm 534
New York, New York 10004

And, I hereby certify that I caused the document(s) to be mailed by first-class prepaid envelop U.S. mail to the following:

Susan Ruffalo
7 Pleasant Avenue
White Plains, New York 10605

Dated: January 30, 2023
Yonkers, New York

JAMES G. DIBBINI & ASSOCIATES, P.C.
Attorney for Creditor
570 Yonkers Avenue
Yonkers, New York 10704
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/s/ James G. Dibbini, Esq.
JAMES G. DIBBINI, ESQ.